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HOUSE RESEARCH ORGANIZATION

daily floor report

Thursday, May 16, 2019
86th Legislature, Number 67
The House convenes at 10 a.m.
Part One

The bills analyzed or digested in Part One of today's *Daily Floor Report* are listed on the following page.

All HRO bill analyses are available online through TLIS, TLO, CapCentral, and the HRO website.



Dwayne Bohac
Chairman
86(R) - 67

HOUSE RESEARCH ORGANIZATION

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Thursday, May 16, 2019

86th Legislature, Number 67

Part 1

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SUBJECT: Continuing the School Land Board

COMMITTEE: Land and Resource Management — committee substitute recommended

VOTE: 7 ayes — Craddick, Muñoz, C. Bell, Biedermann, Leman, Minjarez,
Thierry

0 nays

2 absent — Canales, Stickland

SENATE VOTE: On final passage, April 30 — 31-0

WITNESSES: For — (*Registered, but did not testify*: Colby Nichols, Instructional
Materials Coordinators Association of Texas, Texas Rural Education
Association; Barry Haenisch, Texas Association of Community Schools;
Amy Beneski, Texas Association of School Administrators; Will
Holleman, Texas Association of School Boards)

Against — None

On — (*Registered, but did not testify*: Jeff Gordon, General Land Office;
Lauren Ames, Sunset Advisory Commission)

BACKGROUND: The Texas Constitution of 1876 established the Permanent School Fund (PSF) and transferred half of state-owned land to the PSF as an endowment to provide a perpetual source of funding for public education. The constitution assigned the General Land Office (GLO) with managing the land and the PSF. In 1939, the 46th Legislature established the School Land Board (SLB) within GLO to oversee the management, sale, and leasing of the PSF land, which generates revenue the SLB uses to purchase additional real estate and make investments that help fund public education.

In 2001, the 77th Legislature gave the SLB authority previously held only by the State Board of Education to make investments to generate revenue for the PSF. The Legislature in 2005 and 2007 further expanded the SLB's

investment authority by allowing the board to invest in real estate, energy, and infrastructure in addition to land.

Functions. The SLB exists to earn money for the PSF through its management of the fund's 13 million acres of land and investment portfolio, which was valued at about \$6.5 billion including cash at the end of fiscal 2017. The SLB, with administrative support from GLO staff, carries out the following activities:

- sells and trades PSF lands;
- leases PSF lands for energy development, mining, and various coastal uses;
- uses proceeds, such as from mineral leases and royalties, to acquire additional property and mineral interests on behalf of the PSF;
- approves investments; and
- leases recreational cabins on the Texas coast.

The portion of revenue GLO maintains for purchasing additional real estate and making investments is held in the Real Estate Special Fund Account (RESFA). Both the land commissioner on his own and SLB manage PSF land transactions, but SLB alone approves investments in the RESFA and any allowable distribution of money from the RESFA to the State Board of Education and the Available School Fund.

Gross revenue from PSF lands and SLB investments totaled about \$1.9 billion in fiscal 2017.

Governing structure. The board consists of three members, including the land commissioner who serves as board chair, one public member appointed by the governor, and one public member appointed by the attorney general. The public members must be confirmed by the Senate and serve two-year terms. The board meets publicly as often as twice per month and uses two committees to assist with investment decisions and to review applications to combine tracts of PSF land. The investment advisory committee consists of four GLO employees and the pooling committee consists of a representative from the GLO, the governor's office, and the office of the attorney general.

Funding. The SLB primarily funds its activities with lease revenues and fees and earnings from the investment of funds in the RESFA. In fiscal 2017, oil and gas revenues comprised the largest source of revenue for the RESFA, totaling more than \$900 million. GLO uses a portion of the RESFA, including collected fees, to fund administration, management and oversight of the PSF. In fiscal 2017, SLB collected \$28.9 million in administrative fee revenue and GLO spent \$20.3 million in board-related administrative expenses.

Staffing. GLO staff support the board and its operations. In fiscal 2017, GLO employed about 163 staff who perform some SLB functions at least part of the time, with 145 employees working in Austin and 18 employees working in field offices around the state.

The SLB would be discontinued September 1, 2019, unless continued in statute.

DIGEST:

CSSB 608 would continue the School Land Board (SLB) until September 1, 2031. The bill would add two new public members to the board and remove the attorney general's authority to appoint one public member. The bill would require the SLB and State Board of Education (SBOE) to attend an annual joint meeting to discuss the investment and asset allocation of the Permanent School Fund (PSF). The SLB would be required to report the amounts of all fees and compensation paid to investment managers, consultants, and advisors.

Board membership. The SLB would be expanded from the land commissioner and two public members to the land commissioner and four public members. Two public members would be appointed by the governor from lists of nominees submitted by the SBOE, which would have to submit a list of six nominees for a vacant position. The governor could request that the SBOE submit a second list of six nominees if the governor did not choose to appoint a nominee from the first list.

At least one of the public members would have to be a resident of a county with a population of less than 200,000. The governor and the SBOE would have to collaborate to ensure that the SLB membership

complied with this requirement.

The bill would remove the authority of the attorney general to appoint one of the public members.

Annual joint meeting. The SLB and the SBOE would be required to hold an annual joint public meeting to discuss the allocation of the assets of the PSF and the investment of the money in the fund. Each SLB member would have to attend the joint meeting unless excused by a majority vote of the SLB. Each SBOE member also would have to attend the joint meeting unless excused by a majority vote of the SBOE. If the SBOE delegated powers and duties relating to PSF investments to a board committee, only a majority of the committee members would have to attend the joint meeting.

Training. CSSB 608 would apply standard Sunset recommendations for board member training as well as SLB-specific requirements for training on the board's investment programs and strategies and the PSF, including a comprehensive overview of the law governing the fund.

The bill would apply standard Sunset recommendations for handling complaints and for separating the policymaking responsibilities of the board and the management responsibilities of the land commissioner and GLO staff.

Investment cap. The bill would amend the statutory cap on the market value of the SLB's real estate investments to specify that on January 1 of each even-numbered year, the market value of these investments could not exceed an amount equal to 15 percent of the market value of the assets held by the board and the SBOE as part of the PSF.

Fee disclosure. In its biennial reports to the Legislature on the investment of funds in the Real Estate Special Fund Account, the SLB would have to include the amounts of all fees or other compensation paid by the board to investment managers, consultants, or advisors appointed or organizations contracted with for the investment of funds or to advise on the management of funds in the account.

Effective date. Changes to SLB membership would not affect the eligibility of a member serving immediately before the effective date of the bill to complete the member's term. As soon as possible after the effective date of the bill, the governor and the SBOE would have to collaborate to appoint members of the board.

A member of the SLB could not vote, deliberate, or be counted as a member in attendance at a board meeting held on or after December 1, 2019, unless the member completed the training required by the bill.

The bill would take effect September 1, 2019.

**SUPPORTERS
SAY:**

CSSB 608 would enable the School Land Board (SLB) to continue its responsibilities of managing state land and generating investment revenue for the Permanent School Fund (PSF) by continuing the board for 12 years and improving its operations by implementing recommendations from the Sunset Advisory Commission.

Board membership. The bill would improve the effectiveness of the board by expanding its members from three to five and restructuring how they were appointed. Since two members now constitute a quorum, an official meeting of the board occurs any time two members discuss SLB business. Having a larger board could improve the SLB's ability to make decisions when a member is recused from a vote for a conflict of interest. A larger board also would allow the SLB to create subcommittees to help oversee the board's investments, procurement practices, and other areas needing greater oversight.

The inclusion of a board member from a county of less than 200,000 would ensure that rural Texans were represented when the SLB made important decisions about managing state land and making investments to fund Texas schools.

The bill would improve the relationship between the SLB and State Board of Education (SBOE), which share responsibility for managing the PSF. The SBOE would have a voice in appointing two SLB members by providing a list of recommended candidates for the governor to consider for appointment. As a safeguard, the governor could reject the SBOE's

first list of candidates for a vacancy and request a second list of six names.

As the SLB is restructured and expanded, it would be appropriate to remove the attorney general's authority to appoint one of the SLB public members. The bill would vest appointment authority solely with the governor.

Joint meeting. Recent issues related to the joint management of the PSF by the SLB and SBOE indicate that both boards would benefit from a deeper understanding of the other board's work. CSSB 608 would improve coordination between the two boards by requiring an annual public joint meeting to discuss how each board was allocating assets and managing investments. This would ensure that the PSF investments, taken together, remain diversified to alleviate the risk of being overinvested in certain investment sectors.

Fee disclosure. The bill would improve transparency by requiring the SLB to disclose the fees it paid to outside investment managers and advisors.

While some have expressed concern that the Sunset process did not lead to recommendations to address the bifurcated management of the PSF and the resulting costs to education revenue, the Sunset process was appropriately focused on ensuring that the SLB had a strong governing structure to enable the board to make good decisions. Larger issues about the PSF would more appropriately be addressed in separate legislation.

OPPONENTS
SAY:

The expansion and restructuring of the SLB proposed by CSSB 608 would do little to eliminate the potential for recusals by board members due to conflicts of interest when reviewing and voting on proposed investments and related considerations. A better structure would involve input from the land commissioner during the board member appointment process to allow GLO to perform due diligence in advance of any appointment to identify potential conflicts of interest.

The bill also should require at least some of the public members on the expanded board to have a background or expertise in investment strategies to better enable the board to make decisions about managing assets and

investments.

OTHER
OPPONENTS
SAY:

The Legislature should use the Sunset review process to end the problematic bifurcated management of the PSF, which costs revenue that could be used to improve school funding. This dual-management structure was created by the Legislature and should be fixed. Prior to 2001, the SLB managed the PSF's land and mineral rights and generated revenue for investment by the SBOE into the PSF. Due to legislative changes, the SLB now uses revenues from state lands to make its own investments. The bifurcated system has resulted in inefficiencies stemming from having two boards making similar investments that should be addressed in the bill.

SUBJECT: Revising the operations of the Texas Windstorm Insurance Association

COMMITTEE: Insurance — committee substitute recommended

VOTE: 7 ayes — Lucio, G. Bonnen, Julie Johnson, Lambert, Paul, C. Turner, Vo
0 nays
2 absent — Oliverson, S. Davis

SENATE VOTE: On final passage, April 4 — 30-1 (Seliger)

WITNESSES: For — Jay Thompson, AFACT; Lee Loftis, Independent Insurance Agents of Texas; Beaman Floyd, Texas Coalition for Affordable Insurance Solutions; (*Registered, but did not testify*: Joe Woods, American Property Casualty Insurance Association; Ryan Brannan, Coastal Windstorm Insurance Coalition; Paul Martin, National Association of Mutual Insurance Companies; Jessica Boston, Texas Association of Business; Trace Finley, United Corpus Christi Chamber of Commerce; Cathy DeWitt, USAA)

Against — Carlos Castillo, Francisco Medrano, and Daniel Hernandez, Casa Engineering, LLC; Joseph Brooks, Complete Curb Products; and seven individuals (*Registered, but did not testify*: Arthur Simon; Ronald Voss)

On — (*Registered, but did not testify*: Carissa Nash, Sunset Advisory Commission; Elisabeth Ret, Texas Department of Insurance; John Polak, Texas Windstorm Insurance Association)

BACKGROUND: The Texas Windstorm Insurance Association (TWIA) is a nonprofit insurance provider created by the Legislature in 1971 to provide windstorm and hail insurance for residential and commercial property owners in designated coastal counties who are unable to purchase coverage in the private insurance marketplace. TWIA operates with regulation and oversight from the Texas Department of Insurance (TDI).

Governance and membership. TWIA is governed by a board of directors consisting of nine members who serve staggered three-year terms. The board members are appointed by the commissioner of TDI. The board does not have rulemaking authority; instead, it makes recommendations to the TDI commissioner.

Companies providing property insurance in Texas are required to be TWIA members unless they qualify for a specific exemption.

Funding. TWIA operates primarily on premiums collected from policyholders, and its expenditures vary widely from year to year depending on the number and severity of claims. In 2016, the most recent calendar year without a major storm, TWIA collected about \$500 million in revenue and expended about \$353 million.

In years without a major coastal storm, TWIA uses annual premium revenues to pay claims and often generates a surplus that is deposited in the Catastrophe Reserve Trust Fund (CRTF), an account outside of the treasury managed by the comptroller that held almost \$750 million before Hurricane Harvey.

In the event premiums and other sources of revenue do not fully cover TWIA's costs, each company pays assessments in proportion to their share of business across the state. Assessments cannot exceed \$1 billion collectively in response to a single year's funding needs.

In 2017, TWIA's expenditures significantly increased due to Hurricane Harvey, totaling \$1.7 billion, including \$743 million from the CRTF, \$448 million in bond proceeds from a previous bond issuance, and \$281 million in member assessments.

Staffing. In 2016, TWIA employed 218 staff at the agency's headquarters in Austin, with an additional 25 contract employees and a third-party call center. At the end of 2017, TWIA had 228 employees and an additional 402 contracted staff. TWIA employees are not state employees and do not receive state benefits.

Depopulation. In 2015, to encourage growth in the private coastal

insurance market, the Legislature authorized two programs through SB 900 by Taylor designed to shift policies out of TWIA and into private insurance companies through a process called depopulation. Under the depopulation programs, TWIA shares policy information with participating private insurers who can make offers to take over TWIA policies subject to approval by the policyholder and the policyholder's insurance agent.

Sunset date. TWIA is subject to review under the Sunset Act but is not subject to abolishment under that chapter.

DIGEST:

CSSB 615 would make changes to the operations and functions of the Texas Windstorm Insurance Association (TWIA). The changes would include:

- establishing a process for automatic renewal of policies and acceptance of certain payment methods;
- formally authorizing TWIA to provide supplemental payments;
- determining replacement cost at effective date of policy rather than at the time of property loss;
- transferring the issuance of certificates of compliance from TWIA to the Texas Department of Insurance (TDI);
- requiring certain disclosures; and
- making other changes consistent with across-the-board Sunset recommendations.

The bill would require the next Sunset review of TWIA to occur during the period in which agencies scheduled to be abolished in 2031 would be reviewed.

Customer Service. CSSB 615 would require TWIA to establish a process for automatic renewal of a policy. The process would have to provide for TWIA to verify the flood insurance coverage and declination required by statute and any other information related to insurability of a property. The process also would have to provide an opportunity for the policyholder to elect to cancel the policy before it automatically renewed. The bill would eliminate a current requirement for TWIA to develop a simplified renewal

process.

The bill would require TWIA to accept payment of premium by credit card. TWIA could impose a fee of no more than necessary to recoup the cost incurred for use of the card.

The bill also would require TWIA to provide to policyholders the option to pay premium in installments. A policyholder that paid premiums in accordance with an installment payment plan established by TWIA and remained current on the payments would satisfy the statutory obligation for payment of premiums.

TWIA would be required to comply with provisions relating to automatic renewal beginning January 1, 2020, and provisions relating to payment methods beginning January 1, 2021.

Supplemental payments. TWIA would be authorized to provide for supplemental payments under a windstorm and hail insurance policy. The TDI commissioner would adopt rules clarifying the deadlines related to supplemental payments after considering comments from TWIA, its members, and policyholders. The rules would have to ensure that a request for supplemental payment would not impair a policyholder's statutory right to appraisal.

TWIA policies would have to contain a conspicuous notice concerning the availability of supplemental payments under the policy, including a description of the process for requesting a supplemental payment and notice of applicable deadlines. A notice that TWIA had accepted a claim also would have to include this information.

The notice requirement would apply only to policies delivered, issued, or renewed on or after July 1, 2020.

Replacement cost. CSSB 615 would remove the requirement for TWIA to assess the replacement cost of a property at the time of loss and instead would require it to assess that cost on the effective date of a policy.

The changes to the replacement cost calculation would apply only to

policies delivered, issued, or renewed on or after January 1, 2020.

Certificates of compliance. CSSB 615 would transfer the issuance of certificates of compliance from TWIA to TDI.

TDI would be required to issue a certificate of compliance for a completed improvement if a licensed engineer:

- had designed the improvement, had affixed the engineer's seal on the design, and submitted to TDI on a form an affirmation that the design complied with the applicable building code under the plan of operation and that the improvement was constructed in accordance with the design; or
- completed and submitted to TDI a sealed post-construction evaluation report that confirmed the improvement's compliance with the applicable building code under the plan of operation and included documentation supporting the engineer's post-construction evaluation report on a form on which the engineer had affixed the engineer's seal.

TDI could deny an application for a certificate of compliance if the evaluation report was not fully documented as required.

A form prescribed by TDI for the purposes of applying for a certificate of compliance could not require a professional engineer to assume liability for the construction of an improvement.

TDI could submit a formal complaint under the Occupations Code to the Texas Board of Professional Engineers related to the engineering work of a professional engineer as reflected in materials submitted by an engineer applying for a certificate of compliance.

Provisions relating to certificates of compliance would not affect the status of a certificate issued before June 1, 2020, or after June 1, 2020, in response to an application made before that date for purposes of establishing evidence of insurability. The changes in law would apply to applications made on or after June 1, 2020.

Rate adequacy analysis. CSSB 615 would require TWIA to make its rate adequacy analysis publicly available on its website at least 14 days before the board of directors voted on the submission of a proposed rate filing based on the analysis to TDI.

The rate adequacy analysis would be required to include all user selected hurricane model input assumptions and output data with the same content and in the same format that was customarily provided to TWIA by hurricane modelers and to TDI by TWIA. The bill also would require the rate adequacy analysis be provided in a searchable electronic format that allowed for efficient analysis and that was sufficiently detailed to allow the historical experience in Texas to be compared to results produced by the model.

The bill would require TWIA to accept public comment with respect to its rate adequacy analysis at a public meeting of the board of directors before the board voted on the submission of a proposed rate filing to TDI.

These provisions would apply only to a rate adequacy analysis made on or after the bill's effective date.

Conflicts of interest. The bill would require members of the board of directors and members of a subcommittee of the board related to underwriting and actuarial matters to disclose any known potential conflict of interest with respect to a matter for discussion or vote by the board or subcommittee before the discussion or vote.

A potential conflict of interest would be defined as an interest that could reasonably be expected to diminish the member's independent judgment with respect to the matter for discussion or vote. Potential conflicts of interest required to be disclosed would include a financial or personal interest in an entity that could financially benefit from the outcome of the discussion or vote and holding an insurance policy issued by TWIA that could be affected by the discussion or vote.

The bill would require disclosures under this section be made available to the public. A board or subcommittee member would satisfy this requirement if:

- the member publicly disclosed the conflict of interest during a public meeting or meeting broadcast live on TWIA's website; or
- for a closed meeting or meeting that was not broadcast live, the member disclosed the conflict of interest in the meeting's agenda and made the agenda publicly available on TWIA's website.

Transfer of policies. The bill would amend statutory provisions establishing a procedure for the transfer of reinsured policies. The TDI commissioner could not make rules that contained deadlines that required a property and casualty insurer or agent or a policyholder to take action or make a decision on or after June 1 or before December 1 in any year.

The bill would eliminate requirements for the rule to provide that a reinsurance agreement include an offer commencement date of December 1 and the opportunity for the policyholder to opt out on or before May 31 and replace them with an opportunity for the policyholder to opt out not more than 60 days after the policyholder received notice of the reinsurance agreement.

Rulemaking authority. The bill would permit TWIA to propose a rule for adoption by the TDI commissioner. The commissioner would initiate a rulemaking proceeding within 30 days after receiving a proposed rule. TWIA could request a public hearing for a proposed rule.

Board member training. The bill would prohibit a person who was appointed to and who qualified for office as a member of the board of directors of TWIA from voting, deliberating, or being counted as a member in attendance at a board meeting until the person completed a training program that provided the person with information regarding:

- the law governing the operation of TWIA;
- the programs, functions, rules, and budget of TWIA;
- the scope of and limitations on the rulemaking authority of the board of directors;
- the results of the most recent formal audit of TWIA;
- the requirements of laws relating to open meetings, public

information, administrative procedure, and conflict of interest disclosure, and other applicable laws; and

- any applicable ethics policies adopted by TWIA or the Texas Ethics Commission.

The general manager of TWIA would be required to create a training manual with the above information and annually distribute a copy to each member of the board of directors, who would have to sign and submit to the general manager an acknowledgement of receipt.

TWIA would have to provide for the training program by January 1, 2020.

Public membership. The bill would require the board members appointed to the board of directors from designated areas to represent the general public in the regions described by those subsections.

A person could not be appointed to represent the general public if the person or the person's spouse:

- was employed by, participated in the management of, or directly or indirectly owned or controlled more than a 10 percent interest in a business entity or other organization that operated in the Texas property and casualty industry, received money from TWIA other than insurance claim payments, or received money from TWIA policyholders with respect to policyholders' claims; or
- used or received a substantial amount of tangible goods, services, or money from TWIA, other than insurance claim payments or compensation or reimbursement authorized by law for board members' expenses.

Report. SB 615 would repeal a requirement for the general manager of TWIA to submit a bimonthly report to the board.

The bill would take effect September 1, 2019, except as otherwise specified.

SUPPORTERS
SAY:

CSSB 615 would make improvements to the Texas Windstorm Insurance Association's operational efficiency and effectiveness, including

improvements to customer payment options, clarity regarding the availability of supplemental payments, and a more efficient replacement cost calculation.

CSSB 615 appropriately focuses specifically on Sunset Advisory Commission recommendations to increase the effectiveness and efficiency of TWIA's operations, improve its customer service, decrease costs to policyholders, and help ensure it can respond more quickly to legislative changes. Policy decisions regarding TWIA's purpose, funding structure, and competing mandates would be better left to other legislation.

Customer service. Offering automatic policy renewal would simplify the renewal process for the majority of renewals. Typically, no new information is necessary to continue coverage under the statutory requirements. Other provisions to improve customer service would include allowing installment premium payments, which would help customers who cannot pay the full annual premium upfront. Accepting credit card payments also would make premium payment easier for policyholders.

Supplemental payments. Authorizing TWIA to issue supplemental payments and requiring the commissioner of the Texas Department of Insurance (TDI) to adopt rules for that process would align statute with current practice and create more clarity for policyholders.

Replacement cost. Establishing the replacement cost of a property on the effective date of a TWIA policy would simplify the claims process and provide both TWIA and policyholders with greater certainty regarding policy coverage.

Certificates of compliance. Transferring issuance of certificates of compliance to TDI would ensure proper oversight to make sure TWIA-insured buildings were properly prepared for extreme weather conditions. The transfer would provide better customer service to policyholders and would provide comprehensive and consistent information about windstorm code compliance. TDI is well equipped to handle this oversight.

Conflicts of interest. The bill's requirement of disclosure of conflicts of interest would improve transparency for stakeholders and board members around the board decisions.

Transfer of policies. Changes to rules on the transfer of policies from TWIA to private insurers would reduce policyholder confusion and reduce the administrative burden on TWIA.

Rulemaking authority. Granting TWIA authority to formally propose rules to TDI would aid the timely implementation of statute and facilitate TWIA's continued process improvements.

OPPONENTS
SAY:

By granting the authority to issue certificates of compliance to the Texas Department of Insurance, CSSB 615 would continue to put non-engineers in charge of approving engineering decisions. The practice of issuing or affirming certificates of compliance after a property has been constructed or renovated allows for jobs to be inspected and approved by an engineer, built, and then afterwards rejected. These reviews by non-engineers who lack sufficient expertise can be prone to abuse. Oversight of professional engineering decisions should be left to the Professional Board of Engineers.

It is not necessary to codify the Sunset Advisory Commission's standard recommendations regarding member training and conflict of interest disclosure because the practices already are standard operating procedure for TWIA. New board members are given live, onsite training as they are appointed, using training materials that cover the items included in the Sunset recommendation. TWIA has a rigorous ethics and conflict-of-interest policy and requires board members to make annual certifications and disclose relevant conflict information.

OTHER
OPPONENTS
SAY:

CSSB 615 would not go far enough in addressing the central policy issues surrounding TWIA, including its funding structure and competing mandates. The Legislature's deferral on the issue of TWIA's contradiction in organizational purpose has resulted in increasing rates for policyholders and no meaningful transfer of policies from TWIA to private insurers.

TWIA's current funding structure primarily relies on premiums and debt

repaid by future premiums. Assessments against members help to subsidize costs and cover claims in major storm years, but there is a liability cap on such assessments against the industry. Since TWIA's revenue from premiums is insufficient to pay future claims, TWIA would have to issue more debt secured by future premium revenues, necessitating further increases in policyholder rates.

At the same time, TWIA is supposed to be an insurer of last resort for coastal communities that cannot purchase windstorm insurance on the private market. Because mortgages typically require windstorm insurance coverage of the mortgaged property, changes to TWIA's funding structure to allow for even greater flexibility raising premiums could make TWIA coverage too expensive and could risk the long-term viability of certain coastal communities.

SUBJECT: Continuing the Department of Public Safety; transferring certain programs

COMMITTEE: Homeland Security and Public Safety — committee substitute recommended

VOTE: 8 ayes — Nevárez, Paul, Calanni, Clardy, Goodwin, Israel, Lang, Tinderholt

0 nays

1 absent — Burns

SENATE VOTE: On final passage, April 16 — 31-0

WITNESSES: For — (*Registered, but did not testify*: Chris Jones, CLEAT; Richard Hardy, Motorcycle Safety Foundation)

Against — Rick Briscoe, Open Carry Texas

On — Charles Kellis and Alex Smith, ASSIST; Julie Davis and Amy Trost, Sunset Advisory Commission; Michelle French, Tax Assessor Collectors Association of Texas; Kelly Ryan, Texas Burglar and Fire Alarm Association; Skylor Hearn and Steven C. McCraw, Texas Department of Public Safety; Steve Mach, Texas Public Safety Commission; (*Registered, but did not testify*: Brian Francis, Texas Department of Licensing and Regulation; Shelly Mellott, Texas Department of Motor Vehicles; Amanda Arriaga, Kevin Cooper, and Wayne Mueller, Texas Department of Public Safety)

BACKGROUND: The 44th Legislature in 1935 established the Department of Public Safety (DPS) by combining the Texas Rangers and the Texas Highway Patrol to enforce laws protecting public safety and to prevent and detect crime.

Functions. To fulfill its mission to protect and serve Texas, DPS performs certain key functions, including enforcing traffic safety and commercial vehicle laws, investigating and interrupting organized crime and terrorism, investigating major violent crimes and public corruption, responding to

emergencies and coordinating disaster recovery efforts, supporting law enforcement through crime lab and records services, and administering numerous regulatory programs.

Governing structure. The Public Safety Commission oversees the department's operations and policies, and two statutorily created advisory committees inform on metal recycling entities and vehicle inspection matters.

The commission is composed of five governor-appointed members who must have knowledge of and experience in the enforcement of laws and reflect the diverse geographic regions and population of the state. Members must maintain a security clearance issued by the U.S. government.

Funding. DPS received about \$1.4 billion in revenue in fiscal 2017, including \$1 billion in general revenue and more than \$254 million in federal funds. DPS also generated more than \$811 million in revenue in fiscal 2017 from various sales and fees, a portion of which was appropriated back to the department or deposited into the General Revenue or Texas Mobility funds. Of that revenue, driver's license fees accounted for about \$405 million, or about 50 percent of the department's generated revenue.

Staffing. In fiscal 2017, DPS employed more than 9,800 individuals, including almost 4,200 commissioned peace officers. DPS maintains almost 500 offices, with the majority of staff located outside of its headquarters in Austin in the state's seven regions.

DPS would be discontinued September 1, 2019, if not continued by the Legislature.

DIGEST: CSSB 616 would continue the Department of Public Safety (DPS) until September 1, 2031, provide for the conditional transfer of the driver's license program to the Texas Department of Motor Vehicles, require an annual report on border crime, transfer the motorcycle and off-highway vehicle operator training programs to the Texas Department of Licensing and Regulation, and reclassify the Texas Private Security Board as an

advisory committee.

The bill also would revise the regulation of certain other programs administered by DPS and would adopt certain across-the-board Sunset Advisory Commission recommendations relating to board member training requirements.

Transfer of driver's license program. CSSB 616 would require DPS to enter into a contract with an independent, third-party contractor designated by the comptroller to conduct a feasibility study that examined and made recommendations on the management and operating structure of the driver's license, commercial driver's license, and election identification certificate programs and on opportunities and challenges of transferring them from DPS to the Texas Department of Motor Vehicles (TxDMV).

By September 1, 2020, the contractor would have to report to the Legislature, governor, Sunset Advisory Commission, DPS, and TxDMV. If the report was not submitted by the required date, then the bill would transfer all functions and activities of the programs from DPS to TxDMV effective September 1, 2021.

All DPS rules, fees, policies, and decisions would be continued in effect until replaced by TxDMV. All money, contracts, property, and obligations related to the programs would be transferred, and DPS full-time equivalent employee positions that primarily relate to the licensing programs would become positions at TxDMV. A license, certificate, or other authorization issued by DPS would be continued in effect.

Transition plan. As soon as practicable after the effective date of the bill, DPS and TxDMV would have to establish a work group to plan the transfer of the licensing programs. The work group would have to adopt a transition plan to provide for the orderly transfer of the licensing programs, including ensuring that the transfer would be completed on or before August 31, 2021. The work group would have to provide a quarterly report of its progress to the lieutenant governor, the House speaker, the governor, and the Sunset Advisory Commission.

To prepare for the transfer, DPS would have to provide TxDMV with

access to any systems, information, property, records, or personnel necessary to administer the transferred programs.

TxDMV study. As soon as practicable after the bill's effective date, TxDMV would have to study the most effective use of available state and county resources to administer the transferred programs, prioritizing administrative efficiency and cost savings and accessibility of the programs, including in rural areas.

Provisions of CSSB 616 related to the transfer of licensing programs would take immediate effect or, if the bill did not receive the necessary vote, would take effect on September 1, 2019.

Expiration dates of driver's licenses. SB 616 would extend the expiration date of original and renewal driver's licenses and commercial driver's licenses (CDL) and increase associated fees.

Driver's license. The bill would extend the expiration date of an original or renewal driver's license from six to eight years. The fee for issuance or renewal would be increased from \$24 to \$32.

The fee for renewal of a Class M license or for renewal of a license that included authorization to operate a motorcycle would be increased from \$32 to \$43. If a class A, B, or C driver's license included an authorization to operate a motorcycle or moped, the fee for the driver's license would be increased by \$11 instead of \$8.

Commercial driver's license. The bill would extend the expiration date of an original CDL from five to eight years. An optional expiration date for a non-domiciled CDL would be extended from five to eight years.

The expiration date would be extended from five to eight years for a CDL issued to a person holding a Class A, B, C, or M license that expired within certain periods as provided in the bill. The renewal of a CDL that had been expired for less than one year would be extended from five to eight years after its expiration. For a CDL that had been expired for at least one year but no more than two years, the bill would extend the expiration from six to seven years after the applicant's last birthday.

The bill would set the expiration date of an original CDL with a hazardous materials endorsement at five years after the applicant's next birthday. The expiration date for a CDL with a hazardous materials endorsement issued to a person holding a Class A, B, C, or M license that expired within certain periods as provided in the bill would be set at five years.

The bill would set at five years after the CDL's expiration the renewal of a CDL with a hazardous materials endorsement that had been expired for less than one year. If the CDL with endorsement had been expired for at least one year but no more than two years, the renewal would be set at five years after the applicant's last birthday.

The fee for a CDL would be increased from \$60 to \$96. The fee for a CDL with a hazardous materials endorsement would be set at \$60, except as provided by the bill.

These provisions would apply only to a driver's license or CDL issued or renewed on or after June 1, 2020.

Motorcycle and off-highway vehicle operator training programs. On September 1, 2020, all functions and activities related to the motorcycle operator training and safety and the off-highway vehicle operator education and certification programs would be transferred from DPS to the Texas Department of Licensing and Regulation (TDLR). DPS would have to provide access to any systems or information necessary for TDLR to accept the transferred programs.

All DPS rules, fees, policies, decisions, and forms would be continued in effect until replaced by the Texas Commission of Licensing and Regulation or TDLR. All money, contracts, property, and obligations related to the programs would be transferred, and DPS full-time equivalent employee positions that primarily related to the transferred programs would become positions at TDLR. A license or certificate issued by DPS would be continued in effect.

Unless otherwise noted, the bill's provisions related to these programs would take effect September 1, 2020.

Disposal of equipment. By August 31, 2020, DPS would have to dispose of motorcycles and other equipment related to the motorcycle operator training and safety program that it possessed or had leased to entities offering training.

By February 28, 2020, DPS would have to provide any entity to whom it leased a motorcycle a period to purchase or return it. After this period but by May 31, 2020, DPS would have to transfer motorcycles and other equipment to meet the needs of TDLR, the Texas A&M Transportation Institute, and the Texas A&M Engineering Extension Service.

By August 31, 2020, DPS would have to inform the Texas Facilities Commission that any remaining motorcycles and related equipment were surplus or salvage property. The remaining items would have to be sold in accordance with applicable state law.

With the exception of certain fees, all revenue from the disposition of motorcycles would be deposited in the Motorcycle Education Fund Account. By August 31, 2020, DPS and TDLR would have to enter into a memorandum of understanding regarding any property acquired by DPS to ensure the fund was appropriately compensated for those assets.

The bill's provisions related to the disposal of equipment would take immediate effect or, if the bill did not receive the necessary vote, take effect on the 91st day after the last day of the legislative session.

Motorcycle safety advisory board. The Texas Commission of Licensing and Regulation would have to establish and appoint a nine-member board to advise TDLR on matters related to the motorcycle operator training and safety program. The bill would provide for the board's administration and operation and would require the board to be composed of certain members serving staggered six-year terms, including representatives of licensed motorcycle schools, the motorcycle dealer retail industry, law enforcement, the Texas A&M Transportation Institute, the Texas A&M Engineering Extension Service, and the public holding a valid Class M driver's license.

Motorcycle school, instructor licenses. To be eligible for a motorcycle school license, an applicant would have to meet minimum standards established by the commission for health and safety, the school's facility, and consumer protection.

To be eligible for an instructor license, an applicant would have to meet certain requirements listed in the bill, including the completion of a commission-approved training program on motorcycle operator training and safety instruction administered by the Texas A&M Engineering Extension Service.

Minimum curriculum standards. The bill would require the Texas Commission of Licensing and Regulation to establish minimum curriculum standards for courses provided under the motorcycle training and safety program. TDLR would have to approve all courses that met the minimum standards.

The bill would remove a requirement that the motorcycle operator training and safety program contain information regarding operating a motorcycle while carrying a passenger and could include curricula developed by the Motorcycle Safety Foundation.

Training program. CSSB 616 would prohibit a person from offering or conducting training in motorcycle operation unless the person was licensed as a motorcycle school, offered and conducted training in accordance with curriculum approved by TDLR, and employed or contracted with an instructor licensed to conduct the training.

TDLR could contract with qualified persons, including institutions of higher education, to offer and conduct motorcycle operator training and safety courses under the program or research motorcycle safety in Texas. TDLR would have to consult with the advisory board on any proposed contract.

TDLR would have to issue a certificate to a person who completed a department-approved motorcycle operator training and safety course on receipt of notice from the motorcycle school that conducted the course. The department also could develop a process that allowed a motorcycle

school to issue a certificate of completion.

Fees. The commission could set fees in amounts reasonable and necessary to cover program administration costs, including fees for courses offered under the motorcycle operator training and safety program and the issuance and renewal of a motorcycle school or instructor license.

Research, advocacy, and education. The Texas A&M Transportation Institute, in consultation with TDLR, would be required to research motorcycle safety in the state and provide advocacy and public education on motorcycle safety issues.

Motorcycle safety grant program. Using money from the Motorcycle Education Fund Account, TDLR could establish and administer a grant program to improve motorcycle safety in Texas. An institution of higher education would be eligible to receive a grant and could use the money to administer the instructor training program or provide research, advocacy, and education on motorcycle issues in Texas.

TDLR also could award a person a grant to promote the motorcycle training and safety program, increase the number of individuals seeking motorcycle operator training or licensure as an instructor, or to support any other goal reasonably likely to improve motorcycle safety in the state.

Report on border crime. DPS would be required to submit to the Legislature by May 30 of each year a report on border crime that included statistics for each month of the preceding year and yearly totals of all border crime and other related criminal activity that occurred in each county included in a DPS region that was adjacent to the Texas-Mexico border. The report also would have to include statewide crime statistics for the reported crimes.

Regulation of private security. On September 1, 2019, the Texas Private Security Board would be abolished, all board functions and activities would be transferred to DPS, and the terms of board members would expire. The board would be reclassified as the Texas Private Security Advisory Committee, and as soon as practicable after the bill's effective date, the Public Safety Commission would have to appoint members to the

seven-member committee. A board member whose term expired would be eligible for reappointment to the advisory committee.

The Public Safety Commission would designate one member to serve as a liaison to the committee. Law governing state agency advisory committees would not apply to the size, composition, or duration of the advisory committee or to the appointment of its presiding officer.

The advisory committee would have to meet at least quarterly and provide recommendations to DPS and the Public Safety Commission on technical matters relevant to the administration of laws governing private security and the regulation of related industries.

CSSB 616 would revise provisions relating to the general powers and duties of the regulatory authority under the Private Security Act and require the Public Safety Commission to guide DPS in the administration of the act.

Licenses. CSSB 616 would require a person to obtain the proper individual license and be employed by a company license holder to perform any activity regulated by the Private Security Act and would repeal references to endorsements, letters of authority, branch office licenses, managers, registrants, and registrations.

An "individual license" would mean a license issued by DPS that entitled an individual to perform a service regulated by the act for a company license holder, including a personal protection officer license. "Company license" would mean a license issued by DPS that entitled a person to operate as a security services contractor or investigations company.

Under the bill, private security consultants and consulting companies, guard dog companies and trainers, and security salespersons no longer would be regulated by the Private Security Act. On September 1, 2019, any related license, endorsement, or other authorization would expire.

The bill would remove the Class P, Class X, and Class T classifications of licenses for investigation companies related to private businesses, government letter of authority licenses, and telematics licenses. The bill

would remove a requirement that qualifying telematics companies pay an annual fee to be exempt from the Private Security Act.

The bill would revise the requirements for a security department of a private business or a political subdivision to employ a commissioned security officer. Instead of requiring a letter of authority, the bill would require the security department to provide notice to DPS of the intent to employ a commissioned security officer and other specified information. DPS would have to maintain a registry of security departments that provided the notice and other information.

An individual who owned at least a 51 percent interest in a company license holder would have to obtain the appropriate individual license.

A company license, individual license, security officer commission, personal protection officer license, or any other license issued under the Public Security Act would expire on a staggered renewal system as determined by the Public Security Commission, but not later than the second anniversary of the date on which the license was issued.

Disciplinary action. CSSB 616 would establish hearing and appeals procedures under the Public Security Act. A person regulated under the act against whom the Public Safety Commission took action would be entitled to a hearing before the State Office of Administrative Hearings (SOAH). Laws governing administrative procedure would apply to a proceeding to the extent consistent with the bill.

If a person requested a hearing, the hearing would have to be held by an administrative law judge employed by SOAH and whether the person engaged in the conduct that constituted the grounds for the action would have to be proven by a preponderance of the evidence. If the judge found in the affirmative on the issue, the commission's action would be sustained. If the judge did not find in the affirmative, the commission would have to reverse or withdraw its action and notify the person of the issuance of an order of reversal or withdrawal. The decision of the administrative law judge would be final when issued and signed.

A person against whom the action was sustained could appeal the decision

by filing a petition in a district court in Travis County within 30 days after the decision was final. The judge's final decision would be immediately appealable without the requirement of a motion for a rehearing. A person who was aggrieved by a final decision of a judge would be entitled to judicial review under the substantial evidence rule.

The bill's provisions related to the Private Security Act would not affect the validity of a disciplinary action or other proceeding that was initiated before the bill's effective date and that was pending before a court or other governmental entity on that date.

Regulatory programs. CSSB 616 would establish DPS' powers and duties related to certain regulatory programs.

Criminal history record information. The bill would authorize DPS to obtain and use criminal history record information maintained by the FBI or DPS that related to a person who was an applicant for or held:

- a registration to be a director, manager, or employee of a dispensing organization under the Texas Compassionate-Use Act;
- an authorization to do business as a vendor of ignition interlock devices; and
- a certificate of registration to act as a metal recycling entity.

DPS could require any person for whom it was authorized to obtain and use criminal history record information to submit a complete, legible set of fingerprints for the purpose of obtaining criminal history record information.

Powers, duties related to certain regulatory programs. These provisions would apply to the programs and persons regulated under laws governing:

- the pass for expedited access to the Capitol;
- the Texas Compassionate-Use Act;
- the Private Security Act;
- certain metal recycling entities;
- the standards for vendors of ignition interlock devices; and

- the certification of vehicle inspection stations or inspectors.

DPS could conduct investigations to enforce a law or rule governing a program or person subject to these provisions. The bill would require the Public Safety Commission to make the final determination in an administrative action against a person for a violation of a law or rule, except for a violation of the Private Security Act. The commission could not delegate this duty. A person would be entitled to notice and a hearing if the commission proposed to take any action.

DPS would have to maintain a system that included certain information to promptly and efficiently act on complaints filed regarding a violation. The bill also would establish procedures for DPS complaint investigations, informal complaint resolution and informal proceedings, the authority of DPS to issue a cease and desist order, and the authority of the attorney general to institute an action for injunctive relief on the department's request.

CSSB 616 also would establish the right of a person to notice and a hearing regarding an action by the commission and related administrative procedures for paying or appealing a sanction or penalty.

The commission could deny an application for, revoke, suspend, or refuse to renew a license or could reprimand a license holder for a violation. The commission could place on probation a person whose license was suspended. If a license suspension was probated, the commission could require the person to complete certain actions provided under the bill.

The commission would have to develop a penalty schedule for each program subject to these provisions consisting of administrative sanctions based on the severity and frequency of a violation.

The commission could impose an administrative penalty against a person who violated a law or rule. If law related to a program did not state the maximum amount of an administrative penalty, the amount of the penalty would have to be assessed by the commission in an amount not to exceed \$5,000 per day for each violation. The amount of the penalty would have to be based on the seriousness of the violation, the respondent's history of

previous violations, the amount necessary to deter a future violation, efforts made to correct the violation, and any other matter that justice could require.

Staggered renewal of license. The Public Safety Commission could adopt a system under which licenses expired on various dates during the year. A license issued under a program governed by these provisions could not expire later than the second anniversary of the date the license was issued.

For the year the expiration date of a license was changed, DPS would have to prorate license fees on a monthly basis. The total license renewal fee would be payable on renewal.

Annual regulatory report. DPS annually would have to make available on its website a report of regulatory statistics for the preceding state fiscal year for each program subject to these provisions and aggregate information on all the programs. The report would have to include the number of licenses issued under a program, the number and types of complaints received and resolved, the number of investigations conducted, and the number and types of disciplinary actions taken.

Other provisions relating to vehicle inspection. CSSB 616 would require the Public Safety Commission to adopt rules necessary to comply with applicable law establishing the consequences of a criminal conviction for state licensing with respect to the certification of a vehicle inspection station or inspector.

The commission would have to adopt rules to implement provisions governing hearings on the denial, revocation, or suspension of a certificate issued to an inspector or vehicle inspection station. A certificate would expire as determined by DPS under the bill's provisions but not later than the second anniversary of the date it was issued. Instead of providing for set fees, the bill would require the commission to establish reasonable and necessary fees for certification as an inspector, and the fees could not be less \$25 for initial certification until August 31 of the even-numbered year following the date of certification and \$25 as a certificate fee for each subsequent two-year period.

Programs regulating controlled substances. The bill would repeal provisions of the Texas Controlled Substances Act relating to permits for the sale or transfer of a chemical precursor or a chemical laboratory apparatus. Current chemical precursor or chemical lab apparatus transfer permits would expire on the bill's effective date.

An applicant for the issuance or renewal of a license to operate as a dispensing organization and any directors, managers, employees, and prospective individuals would have to submit a complete set of fingerprints to DPS for a criminal history background check.

The bill would remove a requirement that a person who supplied peyote to a Native American Church register and maintain appropriate records or receipts and disbursements in accordance with applicable rules.

The proposed changes to the Texas Controlled Substances Act would apply only to an offense or violation committed on or after the bill's effective date.

Other provisions. The Public Safety Commission would have to adopt and certify physical fitness programs and that were consistent with generally accepted scientific standards and met applicable requirements of state and federal law, including labor and employment law.

The bill would repeal a requirement that DPS report to the Texas Department of Transportation a description of and the purposes for which DPS intended to use seized and forfeited aircraft.

DPS would be required to report to the Legislature by September 1, 2020, regarding the development and implementation of best practices for the collection, protection, and sharing of personal information held by the department.

The bill would take effect September 1, 2019, unless otherwise noted.

SUPPORTERS
SAY:

CSSB 616 would continue the Department of Public Safety's (DPS) role of protecting the public and providing statewide law enforcement. The bill also would provide DPS the ability to work more efficiently and

effectively in performing its duties.

Transfer of driver's license program. The bill would address concerns that the current processes, procedures, and management of the driver's license program are in need of reform by providing for the conditional transfer of the program from DPS to the Texas Department of Motor Vehicles (TxDMV). Transferring the program would allow DPS to continue to prioritize other public safety functions and combine the program's administration with motor vehicle services and regulation in TxDMV. Currently, 42 states issue drivers' licenses through a department of motor vehicles.

Sunset staff have noted that transferring administration of the driver's license program to TxDMV could be more efficient and benefit customers. DPS has had problems with driver's license customer service, and, according to Sunset staff, these problems have worsened over time. TxDMV has a division dedicated to customer relations that receives high customer satisfaction ratings, and customers could benefit from having both driver's license and motor vehicle functions in a single agency.

Transferring the driver's license program from DPS to TxDMV would be complex, requiring consideration of information technology infrastructure and systems, human resources, facilities, and other factors. For this reason, the bill provides for an independent, third-party feasibility study to evaluate the challenges and opportunities for transition and a framework for DPS and TxDMV to work together to recommend solutions to ensure a successful transfer. TxDMV also would assess personnel, property, and technology resources, among other items, which would provide an opportunity for TxDMV to address any needs prior to the transfer.

Expiration date of driver's licenses. By extending the duration of driver's licenses and commercial driver's licenses, the bill would benefit customers and help alleviate wait times at offices.

Motorcycle and off-highway vehicle operator training programs. Sunset staff suggested that the Texas Department of Licensing and Regulation (TDLR) could better administer and oversee the both the motorcycle and off-highway vehicle safety programs.

TDLR has significant experience with streamlining and simplifying regulatory functions, cooperative interagency discussions, and seeking input from regulated industries. TDLR also has experience administering programs similar to the safety programs that would be transferred under the bill, and the programs would receive more attention at TDLR than at DPS, which is appropriately more focused on its important law enforcement responsibilities.

Report on border crime. The report on border crime required by CSSB 616 would provide adequate and necessary statistics to help the state measure whether its efforts to secure the border were succeeding. Currently, DPS measures the effectiveness of border security efforts in terms of the quantity of resources deployed and intelligence gained. However, this approach does not provide sufficient information to the public and policymakers about the return on investment for border security funds. Without also examining impacts to crime, neither DPS nor the Legislature can effectively plan for future investments.

Regulation of private security. The bill would address concerns that some current regulations of the private security industry do not increase public safety. Conflicting authority between the Private Security Board and the Public Safety Commission has created significant inefficiencies, and overregulation of the industry through a web of registration, endorsement, and licensure requirements contributes to a heavily bureaucratic system that does not meaningfully promote a public interest. This regulation also creates barriers to doing business in Texas.

Sunset staff recommended the continuing regulation of individuals and companies that provide direct private security services and the deregulation of licenses and registrations for individuals and entities that do not directly provide private security services, such as shareholders, partners, corporate officers, managers, branch offices, salespeople, guard dog companies and trainers, and private security consultants. The simplified regulatory structure would better focus DPS' resources on regulation that had a clear nexus to public safety.

Regulatory programs. The bill would standardize DPS' administration of

several regulatory programs by providing the department with a full range of enforcement sanctions and by authorizing flexible license renewal requirements.

Programs regulating controlled substances. CSSB 616 would remove duplicative regulation of precursor chemical and laboratory apparatus sales and peyote distributors that does not meaningfully protect the public. Thorough regulation by the U.S. Drug Enforcement Administration and existing criminal penalties make state regulation of precursor chemical and laboratory apparatus sales and peyote distributors unnecessary. Further, existing criminal laws provide better deterrence for illicit use of precursor chemicals, laboratory equipment, and peyote.

OPPONENTS
SAY:

While CSSB 616 appropriately would continue the Department of Public Safety, the transfer of numerous DPS programs under the bill could disrupt necessary services.

Transfer of driver's license program. Although it makes sense to move the driver's license program from DPS to TxDMV, now is not the time because TxDMV would need additional resources to effectively administer the program. TxDMV lacks sufficient leadership and has deficiencies in its information technology system capacity that need to be addressed before it could handle the administration of the driver's license program and other programs.

Motorcycle and off-highway vehicle operator training programs. The motorcycle operator training program should not be transferred from DPS because the current program has been operated in a manner consistent with legislative directives. The program has increased the number of trained riders in Texas, and transferring the administration of the program away from DPS could reduce the number of trained riders, decrease training quality, and place motorcyclists at risk.

TDLR is a regulatory agency that would not be an appropriate advocate for motorcycle safety. Further, recent transfers of other programs have challenged TDLR's staff and operational resources and significantly reduced its ability to absorb additional responsibilities without increased resources. As a result, TDLR would need additional staffing and resources

to succeed in the transfer, which are not provided under the bill.

Regulation of private security. CSSB 616 should not abolish and reconstitute the Private Security Board as an advisory committee or deregulate certain services within the industry. By taking these actions, the bill would negatively affect public safety. The Private Security Board has the real-world experience necessary to effectively oversee the private security industry, and the board has been effective in voicing industry concerns to DPS.

While it might be beneficial to ease the burden of regulation by reducing or eliminating certain training requirements, fully deregulating sections of the industry could negatively affect public safety. DPS should continue to regulate security salespersons, managers, private security consultants, and guard dog companies and trainers. The bill should not deregulate this portion of the industry as these individuals have access to personal information and information about homes and businesses, just as do those who provide direct security services.

OTHER
OPPONENTS
SAY:

Transfer of driver's license program. CSSB 616 should not require the comptroller to select the independent, third-party vendor for DPS to contract with in order to conduct a feasibility study on the transfer of the driver's license program. DPS should have the flexibility to identify the best entity with whom to contract, including institutions of higher education. Involving the comptroller would increase the costs and time associated with the study.

The bill also should specify issues that the third-party assessment had to examine, especially the migration of information technology hardware and software for the driver's license program from DPS' own data center to possibly either the state data center or a commercial cloud. Identifying related challenges would be important as costs associated with such a migration are estimated to be significant.

In addition, TxDMV operates few service centers, since most transactions are processed by tax assessor collectors, and this could negatively impact the department's ability to administer the driver's license program. Sunset staff found in its review of TxDMV opportunities to further consolidate

and modernize the agency's customer service and develop a more comprehensive approach to its IT infrastructure. These findings should be considered in any potential transfer.

Motorcycle, off-highway vehicle operator training programs. Just as the bill provides for an independent, third-party assessment prior to any transfer of the driver's license program, the bill should require a similar assessment prior to the transfer of motorcycle and off-highway operator training programs to identify related challenges and opportunities. For example, the time frame provided for disposing of motorcycles leased by DPS would shut down many schools that count on leased bikes to run their programs and that could not afford to buy them back. Any study should be sure to involve consultation with motorcyclists, safety experts, and other stakeholders.

TDLR would not be the best agency to administer these programs, and the Legislature should consider transferring them to other, more appropriate agencies. The off-highway vehicle operator training program should be transferred to the Texas Parks and Wildlife Department as it already has related sticker and training programs. The motorcycle training program should be transferred to the Texas Department of Transportation, which already has an interest in motorcycle safety.

NOTES: According to the Legislative Budget Board, the fiscal impact of CSSB 616 to general revenue related funds could not be determined due to the unavailability of certain fiscal estimates associated with the transfer of the driver's license program. There would be fiscal impacts to the Texas Mobility Fund and the Motorcycle Education Account.

SUBJECT: Adjusting Sunset dates for various state agencies and entities

COMMITTEE: State Affairs — committee substitute recommended

VOTE: 8 ayes — Phelan, Hernandez, Holland, Hunter, P. King, Parker, E. Rodriguez, Springer

0 nays

5 absent — Deshotel, Guerra, Harless, Raymond, Smithee

SENATE VOTE: On final passage, April 30 — 31-0

WITNESSES: *On House companion bill, HB 1680:*
For — None

Against — None

On — Cyrus Reed, Lone Star Chapter Sierra Club; Wayne Roberts, Cancer Prevention and Research Institute of Texas; (*Registered, but did not testify*: Jennifer Jones, Sunset Advisory Commission)

BACKGROUND: Government Code ch. 325, the Texas Sunset Act, requires the Sunset Advisory Commission and the Legislature to evaluate certain state agencies periodically to determine whether a public need exists for their continuation or their functions. A state agency is subject to the act if a date is set in statute for it to be reviewed or abolished.

DIGEST: CSSB 619 would adjust the Sunset dates for several state agencies, establish or change provisions related to certain limited-scope reviews, and make changes to the Sunset review process.

The Texas Department of Licensing and Regulation would continue under its Sunset date of September 1, 2021, but CSSB 619 would limit the review so that it could not include a review of any program transferred to the department on or after September 1, 2016.

The bill would move up the abolishment dates of two entities to 2021. The date for the board of trustees of the Teachers Retirement System would be moved from 2025 to 2021, and the date for the Texas Racing Commission from 2023 to 2021.

Criminal justice agencies. The bill would change Sunset dates for two criminal justice agencies. The dates for the Texas Juvenile Justice Board and Texas Juvenile Justice Department would be changed from 2021 to 2023, and the dates for the Texas Board of Criminal Justice and Texas Department of Criminal Justice would be changed from 2021 to 2025.

Public Utility Commission. The bill would extend the Sunset dates for the Public Utility Commission and the Office of Public Utility Counsel from 2023 to 2025.

Education agencies. The Sunset date for the Texas Education Agency would be changed from 2025 to 2027.

As part of the TEA review, the Sunset Advisory Commission would be required to coordinate with the agency to select for review three regional education service centers that served diverse geographic areas and diverse population sizes. The review would have to include an evaluation of the agency's oversight of the centers. Current provisions placing the regional education service centers under Sunset review would be repealed.

The Sunset dates for the Expanded Learning Opportunities Council and the Texas A&M Forest Service, both found in the Education Code, would be extended from 2023 to 2027.

Health and human service agencies. CSSB 619 would extend Sunset dates for several health and human services entities. The bill would change the dates from 2023 to 2027 for the Department of State Health Services and the Department of Family and Protective Services.

The bill would modify the currently required limited-scope review of the Department of Family and Protective Services so that it would include an evaluation and recommendations about the need to continue the department as a state agency separate from the Health and Human

Services Commission.

The Sunset Advisory Commission would be required to conduct a special-purpose review of the performance of the Health and Human Service Commission's office of inspector general with a focus on the office's investigations and the effectiveness and efficiency of the office's processes. The review would have to be conducted during the period in which state agencies abolished in 2023 were reviewed.

The Sunset dates for the Maternal Mortality and Morbidity Task Force, the Public Health Funding and Policy Committee, and the Texas Civil Commitment Office would be extended from 2023 to 2027. The date for the Perinatal Advisory Council would be extended from 2025 to 2027.

CSSB 619 would place the Anatomical Board of the State of Texas under the Sunset Act and would abolish it on September 1, 2021, unless continued in statute.

River authorities. The bill would adjust Sunset dates for various river authorities. The dates for the Lower Neches Valley Authority and the Sabine River Authority would be changed from 2021 to 2025, and the dates for the Angelina and Neches River Authority and the Trinity River Authority from 2023 to 2025.

The Sunset date for Upper Guadalupe River Authority would be changed from 2021 to 2023.

Provisions subjecting certain river authorities to limited Sunset reviews would be reenacted as they were amended by the 85th Legislature.

Other changes to Sunset dates, removing entities. The bill would change other Sunset dates, including the dates for:

- the Texas Invasive Species Coordinating Committee, from 2021 to 2023;
- the Division of Workers' Compensation of the Texas Department of Insurance, from 2021 to 2023;
- the Office of Injured Employee Counsel, which is administratively

- attached to the Texas Workforce Commission, from 2021 to 2023;
- the State Commission on Judicial Conduct and the Judicial Branch Certification Commission, from 2023 to 2025;
 - the Department of Information Resources, from 2021 to 2025;
 - the Texas Facilities Commission, from 2021 to 2027; and
 - the Texas Emergency Services Retirement System, from 2025 to 2029.

CSSB 619 would repeal requirements that the Sunset Advisory Commission review the state's overall procurement system. The bill also would repeal the Sunset review of the comptroller's authority to perform acts related to a state purchasing program that involved purchases from people with disabilities. Review of that program as operated under the Texas Workforce Commission would be moved from 2021 to 2027.

The bill also would repeal a requirement for Sunset review of intermunicipal commuter rail districts.

Sunset review process. CSSB 619 would modify current provisions to specify that the Legislature could place entities, not only agencies, under the Sunset Act. The bill would designate the Sunset Advisory Commission as a legislative agency and would specify that public members of the commission would act on behalf of the Legislature. The bill would revise the Sunset staff's responsibilities to monitor legislation affecting agencies that were reviewed.

The bill would revise provisions dealing with the terms of members of the commission and would specify that, in general, if a commission member served less than a full term, the term would not be counted toward the individual's limit on membership.

The bill would modify provisions relating to assessments of agencies' cybersecurity practices that used confidential information so that the assessments would not be discussed in public hearings or findings and so that recommendations about the practices would not be included in the commission's written reports presented to the Legislature.

CSSB 619 would apply specific confidentiality provisions to

communications between the Sunset Advisory Commission and its staff and state agencies. The bill would specify that communications between the commission or its staff and a state agency that related to a request by the commission for assistance in conducting a Sunset review would be confidential. A state agency's internal communications related to a request for assistance by the commission also would be confidential, including information prepared or maintained by the agency at the request of the commission or its staff.

Other provisions. CSSB 619 would prevail over another act of the 86th Legislature, Regular Session, 2019, relating to nonsubstantive additions to and corrections in enacted codes.

The bill would take immediate effect if finally passed by a two-thirds record vote of the membership of each house. Otherwise, it would take effect September 1, 2019.

**SUPPORTERS
SAY:**

CSSB 619 is the Sunset schedule bill used to balance the Sunset Advisory Commission's workload and to better group similar agencies together. The bill would help ensure agencies undergo timely reviews and that Sunset's workload allows for high-quality work. For example, the bill would ensure that health and human service agencies, including the Department of Family and Protective Services and the Department of State Health Services, had full reviews in 2027 and that the Public Utility Commission was reviewed during the same cycle as the Office of Public Utility Council and the Electric Reliability Council of Texas.

The bill also would revise the Sunset review process to remove certain entities from review, such as a requirement that Sunset review the state's contracting and procurement process. Sunset would continue to look at contracting and procurement at agencies it reviewed, but other entities have responsibilities to look at the system as a whole, including the comptroller, Legislative Budget Board, and the State Auditor's Office.

The bill also would clarify certain Sunset staff procedures, including procedures surrounding the handling of cybersecurity information to ensure that confidential information would not be made public. Provisions dealing with the confidentiality of Sunset communications would ensure

that the confidentiality of information would follow the flow of the information.

**OPPONENTS
SAY:**

Given the changes in the electricity market and sector, including those relating to storage methods, electric vehicles, and reserve margins during certain months, the state might want to consider keeping the current Sunset review schedule for the Public Utility Commission in 2023 rather than extend the date to 2025.

SUBJECT: Creating the Flood Infrastructure Fund, making an appropriation

COMMITTEE: Natural Resources — committee substitute recommended

VOTE: 9 ayes — Larson, Metcalf, Dominguez, Harris, Lang, Nevárez, Oliverson, Price, Ramos

0 nays

2 absent — Farrar, T. King

SENATE VOTE: On final passage, March 20 — 31-0

WITNESSES: For — Taylor Landin, Greater Houston Partnership; Carl Woodward, Harris County Flood Control District; Stephen Costello, City of Houston Mayor's Office; (*Registered, but did not testify*: Trey Lary, Allen Boone Humphries Robinson LLP; Dana Harris, Austin Chamber of Commerce; Matt Phillips, Brazos River Authority; Tammy Embrey, City of Corpus Christi; Sally Bakko, City of Galveston; Bill Kelly and Jamaal Smith, City of Houston Mayor's Office; Donna Warndorf, Harris County Commissioners Court; Logan Spence, Harris Plus Flood Solutions; Laurie Filipelli, League of Women Voters of Texas; Cyrus Reed, Lone Star Chapter Sierra Club; Tom Oney, Lower Colorado River Authority; J.D. Hale, Texas Association of Builders; Mia Hutchens, Texas Association of Business; Billy Howe, Texas Farm Bureau; Wes Birdwell, Texas Floodplain Management Association; Dean Robbins and Stacey Steinbach, Texas Water Conservation Association; Rachel Ching; Wesley Eichenwald; Michael Thompson; Brian Wilson)

Against — (*Registered, but did not testify*: Bill Kelberlau; Ronda McCauley)

On — (*Registered, but did not testify*: Jeff Walker, Texas Water Development Board)

DIGEST: CSSB 7 would create and regulate the Flood Infrastructure Fund, establish certain flood planning procedures, and make an appropriation.

Flood Infrastructure Fund. CSSB 7 would create the Flood Infrastructure Fund as a special fund in the state treasury outside the general revenue fund. The Flood Infrastructure Fund could be used by the Texas Water Development Board (TWDB) as provided by the bill without further legislative appropriation.

The fund would consist of legislative appropriations, general obligation bond proceeds, dedicated fees, loan repayments, interest, gifts, grants, donations, and money from revenue bonds or other sources dedicated by TWDB.

The bill would allow TWDB to use the fund only:

- to make a loan to a political subdivision at or below market interest rates for a flood project;
- to make a grant or low- or zero-interest loan to an eligible political subdivision for a flood project to serve an area outside a metropolitan statistical area or an economically distressed area;
- to make a loan at or below market interest rates for planning and design costs, permitting costs, and other costs associated with state or federal regulatory activities related to a flood project;
- to make a grant to a political subdivision to provide matching funds for participation in a federal program for a flood project;
- as a source of revenue or security for the principal and interest payment on bonds issued by TWDB for purposes of the fund, if the bond proceeds would be deposited in the fund; and
- to pay the expenses of TWDB in administering the fund.

Principal and interest payments on loans made for planning and design or permitting costs could be deferred for up to 10 years or until the construction of the flood project was completed, whichever was earlier.

An eligible political subdivision would include a district or authority created under certain provisions of the Texas Constitution, a city, or a county.

The bill would define "flood project" as a drainage, flood mitigation, or flood control project, including planning and design activities, work to obtain regulatory approval for structural or nonstructural flood mitigation and drainage, and related construction and implementation of structural and nonstructural projects.

Applications for financial assistance. Political subdivisions applying for financial assistance for a proposed flood project would have to demonstrate:

- cooperation with other political subdivisions to address flood control needs in the subdivisions' area;
- all affected political subdivisions participated in the process of developing the proposed project;
- the subdivisions held public meetings on proposed projects; and
- the technical requirements for the proposed project were completed and compared against any other potential flood projects in the area.

A political subdivision applying for a loan for planning and design or permitting costs would not be required to demonstrate the completion of technical requirements.

The application also would have to include an analysis of whether the proposed flood project could use floodwater capture techniques for water supply purposes, including floodwater harvesting, detention or retention basins, or other methods of capturing storm or unappropriated flood flow.

On review and recommendation by the executive administrator, TWDB could approve an application that demonstrated a sufficient level of cooperation among eligible political subdivisions, included all affected political subdivisions, demonstrated sufficient taxes or other revenue to meet all obligations, and otherwise met requirements of this bill and board rules.

TWDB rules and authority. TWDB would have to adopt rules to establish procedures for an application for financial assistance, for the investment of money, and for the administration of the infrastructure fund.

The bill would require TWDB to act as a clearinghouse for information about state and federal flood planning, mitigation, and control programs that could serve as a source of funding for flood projects.

Liability. Participation in cooperative flood planning to obtain money from the infrastructure fund under the bill would not subject an eligible political subdivision to civil liability in regard to a flood project.

Cooperative flood control. A water district, including a river authority, could participate in cooperative flood planning to obtain money from the infrastructure fund as an eligible political subdivision for a flood control project.

Flood control planning contracts. The bill would specify that "flood control planning," for the purposes of planning contracts entered into by TWDB and political subdivisions for the research and planning costs of flood control plans, would mean any work related to:

- planning for flood protection;
- obtaining regulatory approvals at the local, state, or federal level;
- activities associated with administrative or legal proceedings by regulatory agencies; and
- preparing engineering plans and specifications to provide structural or nonstructural flood mitigation and drainage.

Rules adopted by TWDB establishing criteria for the eligibility for flood control planning money would have to give greater importance to a county that had a median household income not greater than 85 percent of the median state household income.

Contingency provisions. Contingent on passage of legislation in the regular session of the 86th Legislature that would require the creation of a state flood plan, on the date TWDB adopted the initial state flood plan other provisions of this bill would take effect that would:

- repeal the section of this bill on allowable uses of the Flood Infrastructure Fund; and

- allow TWDB to use the fund only to provide financing for flood projects included in the state flood plan; and
- allow money from the fund to be awarded to several eligible political subdivisions for a single flood project.

Appropriation. CSSB 7 would appropriate \$3.26 billion from the Economic Stabilization Fund to the Flood Infrastructure Fund. This appropriation would take effect only if the bill was approved by a vote of two-thirds of the membership of each house.

Effective date. The bill would take effect January 1, 2020, but only if the constitutional amendment proposed by the 86th Legislature, Regular Session, 2019, providing for the creation of the Flood Infrastructure Fund was approved by voters. If that amendment was not approved by voters, the bill would have no effect.

**SUPPORTERS
SAY:**

CSSB 7 would support regional planning and coordination on flood mitigation projects to better provide for vital infrastructure in the state by creating the Flood Infrastructure Fund. A significant funding source is necessary to ensure cooperation among regions and all affected stakeholders and to create a more resilient Texas.

Federal funds are available for flood projects after disastrous events, but counties and cities may not be able to put up the matching funds necessary to access that money. The infrastructure fund created by CSSB 7 would provide loans at or below market rates to help local governments meet matching fund needs and assist with basic flood project planning, grant applications, and the engineering of structural and nonstructural flood mitigation projects.

The appropriation made by CSSB 7 would be a one-time expense for necessary flood infrastructure and would be made appropriately through the Economic Stabilization Fund. Infrastructure needs in the state must be met to prepare for future flood events.

**OPPONENTS
SAY:**

While the Legislature should prepare flood planning measures, CSSB 7 would improperly use the Economic Stabilization Fund (ESF) for an appropriation to the Flood Infrastructure Fund. The ESF should be used

only for disaster response or relief or for other one-time expenses. Because the infrastructure fund would be an ongoing state program, the money should come from general revenue.

NOTES:

According to the Legislative Budget Board, the bill would have a negative impact of \$5.8 million to general revenue related funds through fiscal 2020-21. The bill also would appropriate \$3.26 billion from the Economic Stabilization Fund in fiscal 2020 if the bill was approved by a vote of two-thirds of the membership of each house.

Certain provisions in CSSB 7 are contingent on the passage of legislation that would create a state flood plan.

SUBJECT: Establishing state and regional flood plans

COMMITTEE: Natural Resources — favorable, without amendment

VOTE: 9 ayes — Larson, Metcalf, Dominguez, Harris, Lang, Nevárez, Oliverson, Price, Ramos

0 nays

2 absent — Farrar, T. King

SENATE VOTE: On final passage, March 20 — 31-0

WITNESSES: For — Carl Woodward, Harris County Flood Control District; *(Registered, but did not testify: Trey Lary, Allen Boone Humphries Robinson LLP; Dana Harris, Austin Chamber of Commerce; Matt Phillips, Brazos River Authority; Sally Bakko, City of Galveston; Bill Kelly and Jamaal Smith, City of Houston Mayor's Office; Taylor Landin, Greater Houston Partnership; Donna Warndorf, Harris County Commissioners Court; Laurie Filipelli, League of Women Voters of Texas; Cyrus Reed, Lone Star Chapter Sierra Club; Tom Oney, Lower Colorado River Authority; J.D. Hale, Texas Association of Builders; Mia Hutchens, Texas Association of Business; Billy Howe, Texas Farm Bureau; Wes Birdwell, Texas Floodplain Management Association; Dean Robbins and Stacey Steinbach, Texas Water Conservation Association; Heather Harward, Texas Water Supply Partners)*

Against — *(Registered, but did not testify: Bill Kelberlau; Ronda McCauley)*

On — *(Registered, but did not testify: Jeff Walker, Texas Water Development Board)*

DIGEST: SB 8 would create a process to adopt a state flood plan based on regional water plans, establish a temporary advisory committee, and require reports on a dam repair and maintenance plan.

State flood plan. The bill would require the Texas Water Development Board (TWDB) to prepare and adopt a comprehensive state flood plan that incorporated regional flood plans by September 1, 2024, and before the end of each five-year period after that date.

The state flood plan would have to provide for orderly preparation for and response to flood conditions to protect against the loss of life and property, be a guide to state and local flood control policy, and contribute to water development where possible.

SB 8 would require the state flood plan to include:

- an evaluation of the condition and adequacy of flood control infrastructure on a regional basis;
- a statewide, ranked list of ongoing and proposed flood control and mitigation projects;
- an analysis of flood control projects included in previous state flood plans;
- an analysis of development in the 100-year floodplain areas; and
- legislative recommendations.

TWDB, in coordination with other state entities, would have to adopt guidance principles for the state flood plan that reflected the public interest of the entire state. The bill would require TWDB to review and revise the principles as necessary and at least every five years to coincide with the five-year cycle for adoption of a new state flood plan.

On adoption of a state flood plan, TWDB would have to deliver the plan to the governor, lieutenant governor, House speaker, and appropriate legislative committees and leadership.

Regional flood planing. SB 8 would require TWDB to designate flood planning regions corresponding to each river basin, provide technical and financial assistance to the groups, and adopt guidance principles for regional flood plans.

In designating flood planning regions, TWDB could divide river basins to

avoid having an impracticably large area for efficient planning in a region.

TWDB would have to designate representatives from each region to serve as the initial flood planning group. The initial group could then designate additional representatives to serve on the group.

The bill would require the initial group to designate additional representatives if necessary to ensure adequate representation from the interests in its region, including the public, counties, cities, industries, agricultural or environmental interests, small businesses, electric utilities, river authorities, water districts, and water authorities. The group would have to maintain adequate representation from those interests. TWDB and each state agency that coordinated with TWDB in adopting state flood plan guidance principles also would appoint a representative to serve as an ex officio member of each flood planning group.

SB 8 would require each regional flood planning group to hold public meetings as provided by board rule to gather from interested persons suggestions and recommendations that should be considered in a regional flood plan.

The bill would require a regional flood plan to use information based on scientific data and updated mapping and include:

- a general description of the condition and functionality of flood control infrastructure in the flood planning region;
- flood control projects under construction or in the planning stage;
- information on land use changes and population growth in the region;
- an identification of the areas in the region prone to flood and flood control solutions for those areas; and
- an indication of whether a particular solution met an emergency need, used federal money, and also could serve as a water supply source.

After preparing a region flood plan, the group would have to hold at least one public meeting to accept comments on the plan. The planning group

would have to cooperate with TWDB to determine the method for providing notice for the meeting and publish or disseminate the notice in accordance with that method.

The notice would have to contain the date, time, and location of the public meeting, a summary of the flood plan, contact information of a person to whom questions could be submitted, and information on how to submit public comments.

The bill would require the regional planning group, after consideration of comments, to adopt the regional flood plan and submit it to TWDB. TWDB then would make a determination on whether the plan satisfied regional flood plan requirements, adequately provided for the preservation of life and property and the applicable development of water supply sources, and affected a neighboring area.

If the board determined that an element of a regional flood plan would negatively affect a neighboring area, TWDB would have to coordinate with the affected area to adjust the plan. TWDB would adopt a plan after it satisfied all requirements and did not negatively affect a neighboring area.

A flood planning group could amend a plan after it was approved by TWDB according to rules adopted by the board.

Each flood planning group and committee or subcommittee of a group would be subject to open meeting and public disclosure laws.

The bill would require TWDB to adopt guidance principles for regional flood plans and to designate flood planning regions by September 1, 2021. Each flood planning group would have to submit a regional flood plan to TWDB by January 10, 2023.

Advisory committee. SB 8 would establish the State Flood Plan Implementation Advisory Committee, which would be composed of the following six members:

- the chair of the Senate committee with primary jurisdiction over

water resources;

- the chair of the House committee with primary jurisdiction over natural resources;
- a member of the Senate committee with primary jurisdiction over finance, appointed by the lieutenant governor;
- a member of the House committee with primary jurisdiction over appropriations, appointed by the House speaker;
- a representative of the Texas Division of Emergency Management; and
- a representative of the State Soil and Water Conservation Board.

The chairs of the Senate and House committees with jurisdiction over water or natural resources, respectively, would serve as co-chairs of the advisory committee.

The advisory committee could hold public hearings, formal meetings, or work sessions. The bill would prohibit the committee from taking formal action unless a quorum was present.

Members of the advisory committee would not be entitled to compensation for service on the committee or reimbursement for expenses incurred in the performance of official duties as a member of the committee. Service would be considered legislative service for which the member was entitled for reimbursement and benefits to the same extent as for other legislative service.

SB 8 would require the advisory committee to review the overall operation, function, and structure of the state flood plan as well as rules adopted by TWDB to implement the plan at least semiannually. The committee could provide recommendations and comments to TWDB on any matter and would have to make recommendations regarding information to be posted to TWDB's website.

The advisory committee would not be subject to laws on the size, composition, or duration of state agency advisory committees.

This provision would expire and the advisory committee would be

dissolved on September 1, 2021.

Dam repair and maintenance plan, report. SB 8 would require the State Soil and Water Conservation Board to prepare and adopt a plan describing the repair and maintenance needs of flood control dams every 10 years.

The plan would have to include projects under jurisdiction of the state board and authorized under certain federal laws. The state board would have to deliver an adopted 10-year plan to TWDB.

Each year, the state board would have to deliver to TWDB a report regarding progress made on items listed in the 10-year plan. If an update to the plan was necessary before the yearly report or before the end of the 10-year cycle, the state board would have to deliver an amended report or plan to TWDB.

The bill would take immediate effect if finally passed by a two-thirds record vote of the membership of each house. Otherwise, it would take effect September 1, 2019.

**SUPPORTERS
SAY:**

SB 8 would create a coordinated and collaborative state flood plan, based on regional flood plans, that would bring all stakeholders together to plan for and mitigate future flood events.

According to the National Oceanic and Atmospheric Administration, there have been hundreds of flood events in Texas since 2000, which have resulted in many deaths and hundreds of millions of dollars in damages across the state. Recent floods throughout the state in 2015 and Hurricane Harvey in 2017 have further revealed the need for a concerted effort to plan for flooding events both on the coast and statewide.

SB 8 would address this need by establishing a state flood plan to consolidate efforts to address and mitigate floods across political boundaries, allowing for the development of greater flooding solutions and for transparency for stakeholders and residents to participate in the flood planning process. The bill would ensure that the regional flood plan of one area did not negatively affect a neighboring area by requiring the

Texas Water Development Board to work with any region affected by a plan until the issue was resolved. An advisory committee made up of several state agencies and appropriate members of the Legislature would review the state flood plan's initial implementation.

Funds for implementing the state flood planning process established by SB 8 could be provided through the supplemental budget as it is considered by the conference committee.

**OPPONENTS
SAY:**

While SB 8 addresses a need for flood planning in the state, funding may not be available to implement the bill's provisions. The framework to pay for the bill, which has a significant fiscal note through the upcoming biennium, is not included in the supplemental budget bill as passed by the House on March 28.

NOTES:

According to the Legislative Budget Board, the bill would have a negative impact of \$43.4 million to general revenue related funds through fiscal 2020-21.